THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 34444 OF 1997

Date: 06.06.2007

Between:

Smt. D. Vijayamma.

... Petitioner.

And

The Commissioner & Director or School Education, Govt. of A.P. and three others.

... Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 34444 OF 1997

ORDER:

Questioning the order of the first respondent dated 05.07.1997, in rejecting the petitioner's request for being promoted as School Assistant on the ground that four qualified SGBTs in Hyderabad District were seniors to her and that the management did not recommend her case for promotion as School Assistant, the present writ petition is filed.

Aggrieved by the action of the respondents 3 and 4 in transferring certain other Secondary Grade Teachers, from one District to the other, thereby depriving the petitioner's avenues for promotion, W.P. No. 13774 of 1992 was filed and this Court, by order dated 05.06.1996 quashed the impugned order dated 03.10.1992 and directed the management to consider the petitioner's case for promotion in the vacancies that arose in November 1987 and September 1990 in Secunderabad schools in the light of G.O.Ms. No. 167 dated 09.08.1984 and the relevant circulars of the Director General of School Education on the question of maintaining seniority list in respect of various schools run by it. The third respondent was directed to submit its proposals to the Director General of School Education within one month from the date of receipt of a copy of the order and after giving notice to the petitioner.

Contending that the aforesaid order of this Court was violated, willfully and deliberately the petitioner filed C.C. No. 752 of 1997. This Court, by order dated 31.07.1997, upon taking note

of the fact the proposal was pending consideration and the authorities concerned had called for the remarks held that it was not a case for contempt as there was substantial compliance of the orders of the Court. This Court, however, directed the Director General of School Education to dispose of the matter as expeditiously as possible and held that if, on the basis of the proposal sent on 01.07.1996 promoting the petitioner with effect from 01.12.1997, any adverse orders were passed it was open to the petitioner to question the same. The impugned order came to be passed thereafter denying the petitioner the benefit of promotion as a School Assistant.

Sri M.R.K. Chowdary, learned Senior Counsel appearing on behalf of the petitioner would submit that all the four persons, who were said to be seniors to the petitioner herein as SGBTs, were promoted as school assistants even prior to passing of the impugned order. Learned Counsel would refer to the proceedings dated 15.06.1995 wherein the action of the management in promoting Smt B. Snehalatha, and Smt. Ratna, as School Assistants Grade II was ratified. Learned Senior Counsel would submit that the conclusion of the respondents that these four SGBTs were seniors to the petitioner was not correct and that various proceedings filed as part of the writ petition would establish that it is the petitioner who was seniors to these four SGBTs and was entitled to be promoted as School Assistant Grade II even prior to their being promoted.

Learned Government Pleader for School Education, on the other hand, would submit that in the absence of these facts being

brought to the notice of the authorities concerned, it was not open to the petitioner to place reliance on these documents for the first time before this Court and that this Court would not adjudicate on disputed questions of fact. Learned Government Pleader would further contend that the petitioner has since retired from service and that the cause in the writ petition does not necessitate adjudication as she can no longer be promoted as School Assistant Grade II.

It cannot be lost sight of that if the contentions urged on behalf of the petitioner herein were to be accepted by the competent authority, the petitioner would be entitled to be promoted as a Senior Assistant either prior to the aforementioned four persons or in the available vacancies in case all these four SGBTs had been promoted earlier. While it is true that the petitioner, having retired from service, cannot now be appointed as a School Assistant Grade II, she would nonetheless be entitled for payment of additional amount, by way of terminal benefits, in case her plea that she was entitled to be promoted as School Assistant Grade II either prior to the four SGBTs, or on the date when vacancies were available, was accepted. The fact, however, remains that the voluminous material now placed before this Court on behalf of the petitioner and the vehement submissions made by Sri M.R.K. Chowdary, learned Senior Counsel for the petitioner, were not urged before the competent authority and has been raised for the first time before this Court.

Ends of justice would be met if, instead of examining these disputed questions of fact, the petitioner herein is permitted to

submit a detailed representation to the competent authority raising all the contentions, urged in the affidavit filed in support of the writ petition, enclosing all these documents in support thereof. In case the petitioner herein submits such a representation within four weeks from the date of receipt of a copy of this order the respondents shall consider the same and pass appropriate orders in accordance with law.

The writ petition is disposed of accordingly. No costs.

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Date: 06.06.2007 RAMESH RANGANATHAN, J

MRKR